

ACF

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To: State and Territorial Lead Agencies administering the Child Care and Development Fund (CCDF) program, as amended, and other interested parties

Subject: Guidance on the Child Care and Development Block Grant (CCDBG) Act Background Check Implementation Extension

References: The CCDBG Act (42 U.S.C. § 9858 *et seq.*), as amended; section 418 of the Social Security Act (42 U.S.C. § 618); 45 CFR Parts 98 and 99.

Background: The reauthorized Child Care and Development Block Grant (CCDBG) Act of 2014 (the Act) added Section 658H on requirements for comprehensive criminal background checks (42 U.S.C. § 9858f). The Act requires that states and territories “shall meet the requirements of this section for the provision of criminal background checks for child care staff members... not later than the last day of the second full fiscal year after the date of enactment of the Child Care and Development Block Grant Act of 2014.” The Act effective date requires states and territories to come into compliance with the background check requirements by September 30, 2017.

States and territories must have policies and procedures in place that meet the background check requirements not later than September 30, 2017. In addition, all new and existing staff members must have submitted requests for background checks that meet all the requirements by September 30, 2017. States and territories may wish to establish policies and procedures well in advance of the September 30, 2017, effective date, in order to allow sufficient time to clear the backlog of existing providers and staff members that must be checked prior to the deadline.

However, the Act also allows the HHS Secretary to grant the state or territory an extension of up to one fiscal year to meet the background check requirements, as long as the state or Territory demonstrates a good faith effort to comply. This Program Instruction outlines the steps a state or territory needs to take in order to

request an extension on their implementation of the background check requirements.

Guidance: Lead Agencies should submit an extension request if the state or territory cannot certify compliance with the background check requirements by the Act's effective date (September 30, 2017).

Written Extension Request: States and territories requesting an extension to the background check effective date must submit a written request. The request will:

- Describe the state/territory's effort to comply with the background check requirements; and
- Include the state/territory's implementation plan to come into compliance with the background check requirements within one fiscal year (by September 30, 2018). The implementation plan must include:
 - The overall target completion date (no later than September 30, 2018);
 - The current status of met and unmet background check requirements;
 - The specific steps and activities that will be taken to complete the implementation of the background check requirements;
 - The timeline for implementation, including start and end dates for each step or activity; and
 - The agencies and partners responsible for completing implementation of the activities.

Lack of the required information could result in the disapproval of the request. Extension requests must be submitted by the designated official authorized to act on the behalf of the Lead Agency. The Administration for Children and Families' Office of Child Care will respond to the state/territory within 90 days after the receipt of the request.

Consideration for Extension Approval: Section 658H(j)(2) of the CCDBG Act allows the HHS Secretary to grant the state/territory an extension of up to one fiscal year (42 U.S.C. § 9858f(j)(2)). The consideration for approval will be based on whether:

- The state/territory demonstrates a good faith effort (as described in their implementation plan) to comply with the background check requirements; and
- The state/territory presents a plan to comply with the background check requirements by September 30, 2018, as required by the Act.

Timeline for Submission of Extension: Extension requests should be addressed to the Director, Office of Child Care, Administration for Children and Families, and uploaded electronically through the ACF-118 electronic submission site. All requests should include a copy to the respective OCC Regional Program Manager. Extension requests are due no later than 90 days before the Act's effective date of the background check requirements (which means July 3, 2017).

Penalty for Substantial Noncompliance: States and territories should also note that Section 658H(j)(3) of the Act establishes a penalty for noncompliance (42 U.S.C. § 9858f(j)(3)). For any year after the effective date or the extension that a state fails to substantially comply, the Act requires the HHS Secretary to withhold 5 percent of the state's CCDF funds for each fiscal year until coming into compliance.

Questions: Please direct inquiries to the Child Care Program Manager in the appropriate ACF Regional Office (see Attachment A).

/s/

Rachel Schumacher
Director
Office of Child Care

Attachment A: Regional Office Contact Sheet

Attachment A

Office of Child Care Regional Program Managers

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